



Billing Code: 8025-01

SMALL BUSINESS ADMINISTRATION

13 CFR Part 123

RIN: 3245-AG61

Disaster Assistance Loan Program; Disaster Loan Credit and Collateral Requirements

AGENCY: U.S. Small Business Administration.

ACTION: Final Rule.

SUMMARY: On April 25, 2014, the Small Business Administration (SBA) published in the Federal Register an interim final rule amending its disaster loan program regulations in response to Hurricane Sandy Rebuilding Task Force recommendations. The first change allowed SBA to rely on the disaster loan applicant's credit, including credit score, rather than personal or business cash flow in order to assess repayment ability for those applicants with strong credit. The second change increased the amount of disaster assistance funds that can be immediately disbursed to borrowers by raising the unsecured threshold for economic injury loans for all disasters and for physical damage loans for major disasters. SBA received no comments on its interim final rule; therefore, SBA adopts the interim final rule without change.

DATES: This final rule is effective **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

FOR FURTHER INFORMATION CONTACT: Eric Wall, Office of Disaster Assistance, 409 3rd St. SW., Washington, DC 20416, (202) 205-6739.

SUPPLEMENTARY INFORMATION:

I. Background

The Hurricane Sandy Rebuilding Task Force was established pursuant to an Executive Order issued on December 7, 2012, E.O. 13632, Establishing the Hurricane Sandy Task Force (December 7, 2012). This Task Force was established to ensure the recovery effort benefitted from cabinet-level focus and coordination, and was charged with establishing guidelines for the investment of Federal funds made available for the recovery. As a member of this task force, SBA collaborated with these executive agencies and offices to identify and work to remove obstacles to resilient rebuilding while taking into account existing and future risks and promoting the long-term sustainability of communities and ecosystems in the Sandy-affected region.

As a result of Task Force recommendations, SBA published an interim final rule on April 25, 2014 (79 FR 22859). The rule amended 13 CFR 123.6 of SBA regulations to allow SBA to rely on a disaster applicant's credit, including score, as evidence of repayment ability. This change allowed SBA to expedite processing of applications from disaster victims with strong credit by removing the requirement to analyze cash flow for all loans. The interim final rule also revised 13 CFR 123.11 to increase SBA's unsecured disaster loan limit to \$25,000 for economic injury loans for all disasters and for physical damage loans for major disasters. The comment period for the interim final rule ended on June 23, 2014, and SBA received no comments.

Compliance with Executive Orders 12866, 12988, 13132, and 13563 and the Paperwork Reduction Act (44 U.S.C., Ch. 35) and the Regulatory Flexibility Act (5 U.S.C. 601-612)
Executive Order 12866

The Office of Management and Budget (OMB) has determined that this final rule is not a significant regulatory action for the purposes of Executive Order 12866. This is not a major rule under the Congressional Review Act, 5 U.S.C. 800.

Executive Order 12988

This action meets applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden. This action does not have preemptive or retroactive effect.

Executive Order 13132

For the purposes of Executive Order 13132, this final rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government. Therefore, SBA determined that this final rule has no federalism implications warranting preparation of a federalism assessment.

Executive 13563

Executive Order 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 also requires that regulations be based on the open exchange of information and perspectives among state and local officials, affected stakeholders in the private sector, and the public as a whole.

In developing the interim final rule, SBA collaborated with multiple agencies through its participation on Hurricane Sandy Rebuilding Task Force. The Task Force was led by the Secretary of Housing and Urban Development, and included twenty-three executive department agencies and offices. The Task Force worked with these Federal agency members as well as state and local officials to identify areas where immediate steps could be taken to help communities recovering from Hurricane Sandy.

Executive Order 13563 also recognizes the importance of maintaining a consistent culture of retrospective review and analysis throughout the executive branch. SBA had identified revisions to § 123.6 to expedite approval of disaster loans based on credit score as a part of its retrospective review. As stated in that report, an analysis of the performance of disaster loans to borrowers with strong credit indicated limited risk.

Changing the current process of requiring a cash flow analysis for all loan applications has allowed SBA more flexibility to utilize a loan approval process that is in line with current private sector practices and reduce the processing cost for disaster loans.

Paperwork Reduction Act (44 U.S.C. Ch. 35)

For the purpose of the Paperwork Reduction Act, 44 U.S.C. Ch. 35, SBA has determined that this final rule does not impose any new reporting or recordkeeping requirements.

Regulatory Flexibility Act (5 U.S.C. 601-612)

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601 requires administrative agencies to consider the effect of their actions on small entities, including small businesses. According to the RFA, when an agency issues a rule, the agency must prepare an analysis to determine whether the impact of the rule will have a significant economic

impact on a substantial number of small entities. However, the RFA allows an agency to certify a rule in lieu of preparing an analysis if the rulemaking is not expected to have a significant economic impact on a substantial number of small entities.

While this rule will affect all future applicants for disaster assistance, some of which would be small entities, it does not impose any requirements on small entities. It streamlines SBA's processes in order to enable the Agency to provide disaster assistance more quickly and efficiently to small entities. SBA is not a small entity. As such, SBA certifies that this rule does not have a significant economic impact on a substantial number of small entities.

List of Subjects in 13 CFR Part 123

Disaster assistance, Loan programs-business, Reporting and recordkeeping requirements, Small businesses, Terrorism.

Authority and Issuance

Accordingly, for the reasons set forth above, the interim final rule published at 79 FR 22859 (April 25, 2014) is adopted as a final rule without change.

Dated: August 26, 2016

Maria Contreras-Sweet,
Administrator

[FR Doc. 2016-21512 Filed: 9/14/2016 8:45 am; Publication Date: 9/15/2016]